IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
JAIPUR BENCH

S.B. Civil Writ Petition No.1550/03
Arvind Bhartiya Vidyalaya Samiti
Vs.
State of Raj. & Ors.

14.03.2007

Hon'ble Mr. Justice Mohammad Rafiq

Mr. Satyapal Poshwal for petitioner.
Mr. Manoj Sharma for respondent.

Heard the learned counsel for the parties.

The petitioner has challenged the order dated 28.1.2003 passed by the District Collector, Jaipur, the demand notice dated 6.1.2000 and the attachment warrant dated 25.2.2000 issued by the respondent Municipal Corporation, Jaipur demanding from the petitioner the amount of house tax. The petitioner challenged the demand notice before the District

Collector, Jaipur by way of filing an appeal under Section 149 of the Rajasthan Municipality Act, 1959. The learned District Collector upon hearing the arguments of the parties dismissed the appeal by the judgment dated 28.1.2003 on the premise that the petitioner earlier then approaching the District Collector ought to have first filed an appeal before the House Tax Samiti of the Municipal Council under Section 117(2) of the Rajasthan Municipality Act. The learned District Collector did not find substance in the argument of the petitioner that the house tax was exempt under the provisions of the House Tax Act because the petitioner was not able to produce before him any material to substantiate such claim.

Having heard the learned counsel for the parties and perused the material on

record I do not find any error in the order passed by the learned District Collector. The issue in regard of levy of house tax and the fact whether the petitioner was exempted from the demand of house tax are matters of fact, which can be better appreciated by the appellate forum provided for in the concerned Statute itself.

In the facts of the present case when there is a remedy of appeal available to the petitioner under Section 117(2) (supra), the approach taken by the learned District Collector in requiring the petitioner to first avail such remedy cannot be said to be perverse. There being no merit in the petition, the same is dismissed with no order as to costs.

(Mohammad Rafiq),J.

Rs/-